

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT
AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE
RULES. See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.

FILED BY CLERK

NOV 25 2008

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,

Appellee,

v.

JESSE JAMES THOMAS,

Appellant.

2 CA-CR 2008-0078

DEPARTMENT A

MEMORANDUM DECISION

Not for Publication

Rule 111, Rules of
the Supreme Court

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20071041

Honorable Hector E. Campoy, Judge

AFFIRMED

Isabel G. Garcia, Pima County Legal Defender
By Stephan J. McCaffery

Tucson
Attorneys for Appellant

H O W A R D, Presiding Judge.

¶1 Eight jurors found appellant Jesse James Thomas guilty of four counts of aggravated driving under the influence of an intoxicating liquor (DUI) for having driven while impaired, with an alcohol concentration of .08 or more, while his driver's license was

suspended or revoked, and after he had been convicted of DUI charges twice before within the preceding eighty-four months. The trial court ordered Thomas placed on probation after serving a mandatory four-month prison term.

¶2 Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), avowing he has reviewed the entire record and found no meritorious issue to raise on appeal. In compliance with *Clark*, counsel has provided “a detailed factual and procedural history of the case with citations to the record, [so] this court can satisfy itself that counsel has in fact thoroughly reviewed the record.” 196 Ariz. 530, ¶ 32, 2 P.3d at 97. Thomas has not filed a supplemental brief.

¶3 Pursuant to our obligation under *Anders*, we have reviewed the record in its entirety and are satisfied it supports counsel’s recitation of the facts. Viewed in the light most favorable to upholding the jury’s verdicts, *see State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999), the evidence established that, in February 2007, a deputy sheriff approached Thomas while the car he was driving was stopped at a sobriety checkpoint in Pima County. The deputy arrested Thomas after smelling alcohol on his breath and seeing him exhibit signs of intoxication. Thomas consented to have his blood drawn for testing, which measured the alcohol concentration in his blood as .158. The custodian of records for the Motor Vehicle Division of the Arizona Department of Transportation testified that Thomas’s driver’s license was suspended and revoked at the

time of his arrest and that he had been lawfully notified of its suspension and revocation. Thomas stipulated that he had two prior convictions for DUI offenses committed within the previous eighty-four months.

¶4 Substantial evidence supported the jury's findings of all the elements necessary for Thomas's convictions, *see* A.R.S. §§ 28-1381(A)(1), (2); 28-1383(A)(1), and the trial court's disposition was authorized under A.R.S. §§ 13-902(B)(2) and 28-1383(D)(1). We find neither fundamental nor reversible error and therefore affirm the convictions and sentences.

JOSEPH W. HOWARD, Presiding Judge

CONCURRING:

JOHN PELANDER, Chief Judge

J. WILLIAM BRAMMER, JR., Judge